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December 21, 2018

Honorable Kiyo Matsumoto, U.S.D.J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Rucano v. LaManna, 18-CV-4586  
Court's December 11, 2018, Order Concerning Discrepancies in the State Court Record

Your Honor:

In response to Petitioner's November 26, 2018, letter concerning discrepancies in the state court record, I offer the enclosed amendments to the People's November 8 and 9 filings of that record.

The absence of various even or odd pages in the People's filing of the state record was due to scanning errors dating to the years-ago creation of a computerized version of defendant's case file. In order to correct those scanning errors, we have obtained, sorted through, and re-scanned portions of Petitioner's original paper file, which spans six boxes. There are a few filings, however, that we have not been able to locate despite their having already been scanned into the computerized file. Those omissions are described below.

In his November 28 letter, Petitioner alleged a number of "Missing Items of Record on Appeal." The People have identified and attached all but three of them; we have ordered and labeled those available to us as defendant does in his November 26 letter. Three documents were not recovered: "Appendix Item JJ" (Affirmation in Opposition to Motion to Reargue), "Appendix Item "PP" (Motion to Enlarge Appellate Record), and "Appendix QQ" (Decision and Order Denying Motion to Relieve Counsel). None of these documents appear to bear on the substantive claims raised in defendant's habeas petition.

Petitioner also alleged a series of "Incomplete Filings of State Court Record." As above, I have searched the People's files for those documents and identified and attached all but two of them; again, they are ordered and labeled as in defendant's November 26 letter. Two documents were not recovered: "AD 9-45" (alternating pages of statement in support of leave to appeal) and "AD 9-58" (alternating pages of Appellate Advocates contract and best practices guide).

With respect to all of the above, I have declined to include any exhibits attached to documents that duplicate previous filings.

Paper copies of this letter and attachments have been served on defendant and mailed to the Court.

Respectfully yours,

MICHAEL E. MCMAHON  
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Appeals Bureau [ECF signature]

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